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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,404	04/12/2004	Brandon C. Carpenter	WET 0015 PA/40857.24	2889

7590 07/12/2006

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EXAMINER
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CHEN, VIVIAN

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/822,404

Applicant(s)

CARPENTER ET AL.

Examiner

Vivian Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 10-13 and 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 14-24 and 29-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/12/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species I in the reply filed on 4/24/2006 is acknowledged. The traversal is on the ground(s) that the nonelected species would be entitled to consideration upon allowance of a generic claim. This is not found persuasive because none of the elected claims have been deemed allowable.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 11-13, 25-28 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/24/2006.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7, 15-21, 24, 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 15, the phrase "extended time" is vague and indefinite because "extended" is a relative term which is not adequately claimed or defined.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over KUUSIPALO ET AL (US 6,645,584).

KUUSIPALO ET AL discloses a paper laminated with a polylactide coating, wherein the laminated paper is suitable for food packaging and wrapping, wherein the paper substrate has a typical weight of 30-100 g/m<sup>2</sup> and wherein the polylactide coating has a typical coating weight of up to 20 g/m<sup>2</sup>. (Figure 3; column 5)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply a polylactide resin to a paper substrate to form a biodegradable food wrapper, polylactides being polyesters. One of ordinary skill in the art would have utilized conventional paper-based materials such as parchment (claim 2, 16) to form useful packaging wrappers

5. Claims 1-3, 7-9, 14-17, 21-24, 29, 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over GRIMM ET AL (US 6,033,114).

GRIMM ET AL discloses a packaging laminate comprising a paper substrate laminated to a polyester film, wherein the laminated paper is suitable for food wrapping applications and is

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ovenable and/or microwavable, and can be used to contain hot food for display purposes, wherein the paper substrate (e.g., parchment) has a typical weight of 30-70 lbs. (line 10-25, col. 1; line 13-30, col. 3; line 1-12, 47-65, col. 4)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the laminate of GRIMM ET AL to wrap, contain, and protect food during display prior to purchase and during cooking. One of ordinary skill in the art would have utilized conventional paper-based materials such as parchment (claim 2, 16) to form useful packaging wrappers. One of ordinary skill in the art would have selected materials and layer thicknesses to withstand and provide adequate barrier properties for specific usage conditions (e.g., extended exposure to heat and/or typical reheating and/or cooking conditions) (claims 8-9, 22-23, 30-35). It is well known in the art to use conventional functional layers such as commercially available adhesive layers (claim 14, 29) in order to improve interlayer adhesion.

6. Claims 14, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over GRIMM ET AL (US 6,033,114), as applied to claims 1, 15, and further in view of NAKANE ET AL (US 5,173,357).

NAKANE ET AL discloses that it is well known in the art to use adhesive layers to adhere polyester layers to paper substrates.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use conventional functional layers such as commercially available adhesive layers (claim 14, 29) in order to improve interlayer adhesion.

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***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney, can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 7, 2006



Vivian Chen  
Primary Examiner  
Art Unit 1773